

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9
10 **AT SEATTLE**

11 **PENNY CARR,**) Case No.
12)
13 Plaintiff,) **COMPLAINT FOR VIOLATION**
14) **OF FEDERAL FAIR DEBT**
15) **COLLECTION PRACTICES ACT**
16)
17)
18)
19 **NELSON & KENNARD,**)
20 **ATTORNEYS AT LAW,**)
21)
22)
23 Defendant.)

24 **NATURE OF ACTION**

25
26 1. This is an action brought under the Fair Debt Collection Practices
27 Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, and the Telephone Consumer
28 Protection Act ("TCPA"), 47 U.S.C. § 227.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 15 U.S.C. § 1692k(d), 47 U.S.C. §
227(b)(3), 28 U.S.C. § 1331, and 28 U.S.C. § 1367(a).

COMPLAINT FOR VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT-1

WEISBERG & MEYERS, LLC
3877 N. Deer Lake Rd.
Loon Lake ,WA 99148
509-232-1882
866-565-1327 facsimile
jrobbins@AttorneysForConsumers.com

1 which the money, property, insurance, or services that are the subject of the
2 transaction were incurred primarily for personal, family, or household purposes.
3

4 10. Defendant uses instrumentalities of interstate commerce or the mails
5 in a business the principal purpose of which is the collection of any debts, and/or
6 regularly collects or attempts to collect, directly or indirectly, debts owed or due,
7 or asserted to be owed or due another.
8

9 11. Within one (1) year preceding the date of this Complaint, Defendant
10 made and/or placed a telephone call to Plaintiff's cellular telephone number, in
11 effort to collect from Plaintiff an obligation, or alleged obligation, owed or due,
12 or asserted to be owed or due a creditor other than Defendant.
13
14

15 12. Within one (1) year preceding the date of this Complaint, Defendant
16 willfully and knowingly utilized an automatic telephone dialing system to make
17 and/or place a telephone call to Plaintiff's cellular telephone number, in effort to
18 collect from Plaintiff an obligation, or alleged obligation, owed or due, or asserted
19 to be owed or due a creditor other than Defendant.
20
21

22 13. In connection with an attempt to collect an alleged debt from
23 Plaintiff, Defendant contacted a third party for purposes other than obtaining
24 location information.
25
26
27

1 14. Defendant communicated with a single third party more than once in
2 connection with an attempt to collect an alleged debt from Plaintiff.
3

4 15. Defendant has called Plaintiff's place of employment and spoken to
5 Plaintiff's co-workers on multiple occasions for purposes other than to locate
6 Plaintiff, including but not limited to calling repeatedly to allegedly verify that
7 Plaintiff was still employed there. (§ 1692b, 1692b(3) & § 1692c(b)).
8

9 16. Defendant contacted Plaintiff at her place of employment after being
10 informed that such calls are inconvenient to Plaintiff and violate the policy of
11 Plaintiff's employer.
12

13 17. On multiple occasions in June of 2010, Plaintiff informed
14 Defendant's representative, "Mike" that she was not permitted to get this type of
15 phone call at her place of employment.
16
17

18 18. Defendant continued to call Plaintiff at work after those
19 conversations. (§ 1692c(a)(1)(3)).
20

21 19. Defendant placed non-emergency calls to Plaintiff's cellular
22 telephone, without the prior express consent of Plaintiff, using an automatic
23 telephone dialing system and/or artificial and/or prerecorded voice. (47 U.S.C.
24 227(b)(1)(A)(iii).
25
26
27

21. Plaintiff repeats and re-alleges each and every allegation contained above.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated the FDCPA;
- b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,
in the amount of \$1,000.00;
- c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
- d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
this action;
- e) Awarding Plaintiff any pre-judgment and post-judgment interest as
may be allowed under the law;
- f) Awarding such other and further relief as the Court may deem just
and proper.

COUNT II

23. Plaintiff repeats and re-alleges each and every allegation contained above.

24. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) by willfully and knowingly utilizing an automatic telephone dialing system to make and/or place a telephone call to Plaintiff's cellular telephone number.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii);
- b) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C. § 227(b)(3)(B), in the amount of \$500.00 per violation;
- c) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C. § 227(b)(3)(C), in the amount of \$1,500.00 per violation;
- d) Awarding Plaintiff actual damages, pursuant to 47 U.S.C. § 227(b)(3)(B);
- e) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this action;
- f) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law.

TRIAL BY JURY

Plaintiff is entitled to and hereby demands a trial by jury.

Respectfully submitted this 23rd day of November, 2010.

s/Jon N. Robbins

Jon N. Robbins

WEISBERG & MEYERS, LLC

Attorney for Plaintiff